

REMARKS

Applicants amended independent claims 1, 25, 26, 31, 34, 54, 58 and 62 under 35 to remove the feature "wherein said access network is located between the user equipment and the gateway" recited in each of those claims. Applicants note that this feature was introduced into each of the independent claims in a March 18, 2009 Response to a December 18, 2008, Non-Final Action. However, in the December 18, 2008, Non-Final Action, the Examiner had already indicated that the subject matter claims 48-50 would be allowable (Applicants have since added the features of allowable claim 50 to the independent claims in Applicants' September 17, 2009, Response to Final Action of June 16, 2009). As stated by the Examiner in the December 18, 2008, Non-Final Action:

Claim Objections

4. Claims 11, 48-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(December 18, 2008, Non-Final Action, page 15)

Accordingly, Applicants submit that the features of "wherein said access network is located between the user equipment and the gateway" now deleted from the independent claims, does not affect the patentability of the independent claims because the features of the independent claims in combination with the now included feature of previous claim 50 were indicated by the Examiner to be allowable with or without the features of "wherein said access network is located between the user equipment and the gateway".

Applicants thus submit that independent claims 1, 25, 26, 31, 34 54, 58 and 62, as amended herein, are all patentable over the cited art.

The Examiner rejected claim 25 under 35 U.S.C. §101 on the grounds that the phrase "computer readable medium" recited in claim 25 could be interpreted as a transitory form of signal transmission.

In response, to expedite prosecution of the present application, Applicants amended independent claim 25 to replace the recitation "[a] computer program embodied on a computer readable medium" with "a computer program comprising software code stored on a processor-based system." Support for the amendment is provided, for example, at page 3, paragraph 39 of the published application (US 2005/0135375). The amended language of claim 25 recites that the computer program includes software code stored on a processor-based system, i.e., stored on a physical device, and therefore the computer program is embodied in a non-transitory form. Applicants thus traverse the Examiner's rejection of claim 25 under 35 U.S.C. §101.

The Examiner rejected claims 1-12, 14, 20-23, 25, 26, 31, 34-49, 51-62 under 35 U.S.C. §112, first paragraph, on the grounds that the claims allegedly contain subject matter that was not described in the specification in such a way as to reasonably convey that the inventors had possession of the claimed invention at the time the application was filed. For example, the Examiner contended that:

5. Referring to claim 1, where is the support in the specification for "sending from a gateway to a policy control entity a message ..." and "receiving at the gateway from said policy control entity a message indicating a traffic flow decision"? Claim 50 was not part of the original claims and the examiner cannot find the support for claim 50 therefore it appears that the applicant has added new matter.

(Office Action, page 2)

The Examiner's rejection of independent claims 25, 26, 31, 34, 54, 58 and 62 under 35 U.S.C. §112, first paragraph, were all based on similar grounds that the originally filed specification supposedly does not have support for the features pertaining to sending from a gateway to a policy control entity a message, and receiving at the gateway a message indicating a traffic flow decision (or control policy).

Applicants respectfully disagree with the Examiner's contentions.

Contrary to the Examiner's contentions, the specification of the originally filed application includes complete and explicit support for the above-noted features. Specifically, with respect to the feature of claim 1 "sending from a gateway to a policy control entity a message including an indication of the type of the access network via which the service is to be

provided", the specification explicitly describes that a gateway sends a request message to a policy control entity, and that the request may include the type of access network:

[0050] The gateway 40 sends then a request message 2 to the policy control entity 52. The message may include information such as identity of the user/subscriber, access point (AP), type of the access network, and so on.

(Published Application, page 4, paragraph 50; see also FIG. 3)

With respect to the feature of claim 1 "receiving at the gateway from said policy control entity a message indicating a traffic flow control policy decided on the basis of information regarding the type of the access network," the specification explicitly describes that the policy control entity 52 uses the information sent by the gateway to derive information for authorization and policy control decision making:

[0052] The policy control entity 52 may then use the information sent by the gateway 40 to derive information for authorization and policy control decision making.

(Published Application, page 4, paragraph 52)

The information sent by the gateway includes an indication of the network access, and accordingly, traffic flow control policy is decided on the basis of, at least in part, information regarding the type of the access network.

The specification also describes that the policy decision made by the policy control entity is sent to the gateway 40, where that policy decision is enforced:

[0062] The policy decision by the policy control entity 52 is sent to the gateway 40 in message 7. The gateway enforces the policy decision in the provisioning of the service. The gateway may send a 'Report State (Status)' message 8 to the policy control entity. This may be simply an indication if the policy has been enforced successfully.

(Published Application, page 5, paragraph 62)

The features of independent claims 25, 26, 31, 34, 54, 58 and 62 pertaining to sending by

the gateway to the policy control entity, and receiving by the gateway a traffic flow control policy decided on the basis of information regarding the type of the access network are likewise supported by the specification.

Applicants thus traverse the Examiner's rejections under 5 U.S.C. §112, first paragraph.

The Examiner objected to the drawings under 37 C.F.R. §1.83(a) on the ground that the drawings allegedly do not show every feature of the invention specified in the claims. Particularly, the Examiner alleges that the features of the claims pertaining to "sending from a gateway to a policy control entity message ... and receiving at the gateway from said policy control entity a message indicating a traffic flow decision," or similar language, recited in the independent claims are not shown in the drawings.

Applicants traverse the Examiner's objections to the drawings.

For the Examiner's convenience, FIG. 3 of the application is reproduced below:

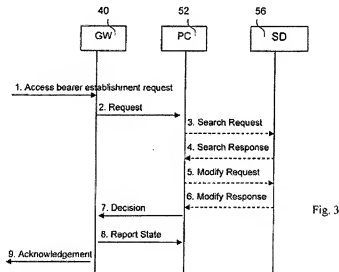


Fig. 3

With respect to message 2 depicted in FIG. 3 (i.e., the arrow annotated "2. Request"), the specification describes as follows:

[0050] The gateway 40 sends then a request message 2 to the policy

control entity 52. The message may include information such as identity of the user/subscriber, access point (AP), type of the access network, and so on.

(Published Application, page 4, paragraph 50)

Clearly, then, FIG. 3 unambiguously shows "sending from a gateway to a policy control entity message," or similar language.

With respect to message 7 depicted in FIG. 3 (i.e., the arrow annotated "7. Decision"), the specification describes as follows:

[0062] The policy decision by the policy control entity 52 is sent to the gateway 40 in message 7. The gateway enforces the policy decision in the provisioning of the service. The gateway may send a 'Report State (Status)' message 8 to the policy control entity. This may be simply an indication if the policy has been enforced successfully.

(Published Application, page 5, paragraph 62)

Clearly, then, FIG. 3 unambiguously shows "receiving at the gateway from said policy control entity a message indicating a traffic flow decision," or similar language.

The Examiner further rejected claims 34 and 62 under 35 U.S.C. §112, second paragraph, on the grounds that the Examiner cannot find antecedent basis in the specification for the structure "means for sending" and "means for receiving". The Examiner also objected to claims 34 and 62 on the ground that the claims should recite the language "means for" before the functions.

Regarding the Examiner's objections to claims 34 and 62, to expedite prosecution of the present application, Applicants made the changes requested by the Examiner.

Regarding the Examiner's rejections of claims 34 and 62 under 35 U.S.C. §112, second paragraph, Applicants again note that the specification contains ample description of the structure used to perform the various operations recited in the claims. For example, as discuss above, FIG. 3 and pages 4-5 and paragraphs 50, 52 and 64 describe the operations performed by the various devices of the communications system, including the gateway and the policy control entity.

Additionally, Applicants refer the Examiner to, for example, FIG. 1 and to paragraphs 29-34 and paragraphs 74-49 of the specification for a very detailed description of the structure and implementations used to perform the functions recited in claims 34 and 62.

Applicants thus traverse the Examiner's rejections of claims 34 and 62 under 35 U.S.C. §112, second paragraph.

CONCLUSION


In view of the foregoing amendments, Applicants submit that the pending claims are in condition for allowance.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-613001US/ NC40049US.

Respectfully submitted,

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